

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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In re:

COMMODITY EXCHANGE, INC., SILVER FUTURES
AND OPTIONS TRADING LITIGATION
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11 MD 2213 (RPP)

ORDER

ROBERT P. PATTERSON, JR., U.S.D.J.

Case Management Order No. 2

(Appointment of Interim Plaintiffs' Lead Counsel and Steering Committee)

On February 25, 2011, this Court heard argument from counsel applying for the positions of Interim Co-Lead Counsel and membership in the Interim Plaintiffs' Steering Committee. Counsel representing ten different plaintiffs submitted an unopposed joint proposal requesting that the Court 1) appoint Labaton Sucharow LLP, Lovell Stewart Halebian Jacobson LLP and Lowey Dannenberg Cohen & Hart, P.C. as Interim Co-Lead Class Counsel for Plaintiffs and 2) appoint Hausfeld LLP, Kaplan Fox & Kilsheimer LLP, Hagens Berman Sobol Shapiro LLP, Grant & Eisenhofer, PA, Sadis & Goldberg LLP, Cohen Milstein Sellers & Toll PLLC, and Pomerantz Haudek Grossman & Gross LLP as the Interim Plaintiffs' Steering Committee. Counsel argued that each firm possessed unique talents which warranted their designation as either interim co-lead counsel or interim steering committee member and that their private ordering should be recognized as the preferred method for structuring this type of litigation. Further, when the Court raised concerns regarding efficiency and the risk of duplicativeness, Counsel argued that because the percentage method is used in determining the reasonableness of attorneys' fees, there is no incentive for counsel to engage in duplicative legal services. The Court does not find this argument persuasive and finds many of the skills and experiences of the

above firms to be duplicative of the skills and experiences of other firms listed. Consequently, in the interests of efficiency and this Court's obligation to ensure the reasonableness of any award of attorneys' fees IT IS HEREBY ORDERED as follows:

I. Appointment of Interim Plaintiffs' Lead Counsel and Steering Committee

The Court designates the following counsel to act on behalf of Plaintiffs with respect to those items enumerated in § II, *infra*.

A. Interim Plaintiffs' Lead Counsel

The Court appoints the firm Lovell Stewart Halebian Jacobson LLP, by Christopher Lovell, as Interim Plaintiffs' Lead Counsel.

Lovell Stewart Halebian Jacobson LLP

by
Christopher Lovell
61 Broadway, Suite 501
New York, New York 10006
Tele: (212) 608-1900

B. Interim Plaintiffs' Steering Committee

The Court appoints the following to the Interim Plaintiff's Steering Committee.

Labaton Sucharow, LLP

by
Bernard Persky
140 Broadway
New York, NY 10005
Tele: (212) 907-0868

Lowey Dannenberg Cohen & Hart, P.C.

by
Vincent Briganti
White Plains Plaza
One North Broadway
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Tele: (914) 997-0500

Hausfeld LLP

by
William P. Butterfield
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Cohen Milstein Sellers & Toll PLLC

by
J. Douglas Richards
88 Pine Street
14th Floor
New York, NY 10005
Tele: (212) 838-7797

II. Responsibilities of Interim Plaintiffs' Lead Counsel and Steering Committee

Interim Plaintiffs' Lead Counsel and Steering Committee shall have the following duties and responsibilities.

A. Interim Plaintiffs' Lead Counsel

Interim Plaintiffs' lead counsel shall be generally responsible for coordinating the activities of plaintiffs during pretrial proceedings and shall:

1. Determine (after consultation with the members of Interim Plaintiffs' Steering Committee and other counsel as may be appropriate) and present to the Court and opposing parties a consolidated class action complaint and thereafter present to the Court the position of the plaintiffs on all matters arising during pretrial proceedings;
2. Coordinate the initiation and conduct of discovery for the common benefit of all plaintiffs;
3. Conduct settlement negotiations on behalf of plaintiffs, but not enter binding agreements except to the extent expressly authorized;
4. Review and coordinate all projected activities with Interim Plaintiffs' Steering Committee to ensure that schedules will be met in an efficient manner;

5. Upon authorization by the Court, delegate specific tasks to other counsel in a manner to ensure that pretrial preparation for the plaintiffs is conducted efficiently and effectively;
6. Monitor activities of counsel performing delegated duties to ensure schedules are met and unnecessary expenditures of time are avoided;
7. Enter into stipulations with opposing counsel as necessary for the conduct of the litigation;
8. Prepare and distribute periodic status reports to the counsel for each of the plaintiffs;
9. Maintain adequate time and disbursement records covering services as interim lead counsel; and
10. Perform such other duties as may be incidental to proper coordination of plaintiffs' pretrial activities or authorized by further order of the Court.

B. Interim Plaintiffs' Steering Committee

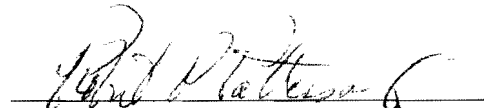
The members of the Interim Plaintiffs' Steering Committee shall consult with Interim Plaintiffs' Lead Counsel to plan and coordinate the plaintiffs' pretrial activities and prepare for trial.

III. Filing of the Consolidated Class Action Complaint

Plaintiffs have sixty (60) days from the date of this Order to file the Consolidated Class Action Complaint (CCAC) in this matter. Defendants will subsequently have sixty (60) days to respond to the CCAC either by motion or answer. If Defendants respond by motion to dismiss, Plaintiffs have sixty (60) days to file opposition papers and Defendants will have forty-five (45) days to submit their reply.

IT IS SO ORDERED.

Dated: New York, New York
March 2, 2011


Robert P. Patterson, Jr.
U.S.D.J.

Copies of this order sent to the following attorneys. All other counsel of record notified by ECF.

Counsel who submitted applications for Interim Lead Plaintiffs' Counsel and Interim Plaintiffs' Steering Committee

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